

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Henry Buren	Team: Squad #05	CCRB Case #: 202302850	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Monday, 03/27/2023 3:08 AM	Location of Incident: southwest corner of East 51st Street and Third Avenue	18 Mo. SOL 9/27/2024	Precinct: 17
Date/Time CV Reported Mon, 03/27/2023 4:33 AM	CV Reported At: IAB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 04/05/2023 2:36 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Charles Zucconi	03055	941422	MS OP NIGHT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Matthew Strong	00000	935800	LAB FIREARMS
2. SGT Brian Muldowney	04254	953149	017 PCT
3. DT3 Andrew Smith	01703	939485	MS OP NIGHT
4. PO Lawrence Viverette	12106	965895	017 PCT
5. SGT Adriano Contreras	02845	934681	017 PCT
6. PO Muneeb Shahbaz	12383	965865	017 PCT
7. PO Marie Forbes	26406	971115	017 PCT
8. PO Richard Kwok	06788	968552	017 PCT
9. PO Nasia Vega	29152	969414	017 PCT
10. PO John Schmitz	12296	974532	017 PCT
11. PO Patrick Amato	01494	958243	017 PCT
12. PO John Velasco	21044	968174	017 PCT
13. CPT Haoran Li	00000	942059	TB SOD
14. PO Brian Prestigiacomo	29483	965426	017 PCT

Officer(s)	Allegation	Investigator Recommendation
A . DT3 Charles Zucconi	Abuse: Detective Charles Zucconi interfered with § 87(2)(b) use of a recording device.	
B . DT3 Charles Zucconi	Force: Detective Charles Zucconi used physical force against § 87(2)(b)	

## Case Summary

On March 27, 2023, § 87(2)(b) filed this complaint in person at the 17<sup>th</sup> Precinct stationhouse. On April 5, 2023, the CCRB received this complaint from IAB.

On March 27, 2023, at approximately 3:08 a.m., at the southwest corner of East 51<sup>st</sup> Street and Third Avenue in Manhattan, § 87(2)(b) filmed Det. Charles Zucconi and Det. Andrew Smith, both of Manhattan South Night Watch, as they walked toward the 17<sup>th</sup> Precinct stationhouse. Det. Zucconi deliberately knocked § 87(2)(b) phone out of his hand (**Allegation A: Abuse of Authority**, § 87(2)(g)). Det. Zucconi allegedly punched § 87(2)(b) on the left side of his head (**Allegation B: Force**, § 87(2)(g)).

The investigation obtained cellphone footage recorded by § 87(2)(b) (Board Review 01, summarized at Board Review 02) and surveillance footage from 845 3<sup>rd</sup> Avenue (Board Review 03, summarized at Board Review 04). The investigation did not obtain BWC footage of the initial incident as neither Det. Zucconi nor Det. Smith were equipped with BWCs. However, the investigation obtained BWC footage of § 87(2)(b) subsequent interactions with officers at the stationhouse (Board Review 05-22, summarized at Board Review 23).

On May 18, 2023, this case was placed on hold as the New York District Attorney's Office conducted an investigation into this incident. On March 13, 2024, the DA's Office elected not to charge Det. Zucconi and released the hold. Sgt. Eduardo Mercado of Detective Bureau Investigations conducted a concurrent investigation into this incident. As of the date of this report, that investigation is still ongoing.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Detective Charles Zucconi interfered with § 87(2)(b) use of a recording device.**

**Allegation (B) Force: Detective Charles Zucconi used physical force against § 87(2)(b)**

§ 87(2)(b) testified (Board Review 24) that he was outside of the 17<sup>th</sup> Precinct stationhouse for about an hour, filming parked NYPD vehicles because it was his First Amendment right and because he wanted to see how his tax dollars were being spent. He began filming Det. Zucconi and Det. Smith because they illegally parked their vehicle in front of a fire hydrant. When the officers exited their vehicle, § 87(2)(b) asked them to move their vehicle since it blocked a hydrant. In response Det. Zucconi pointed his flashlight at § 87(2)(b). The light from the flashlight went into the camera lens on § 87(2)(b) phone, interfering with his ability to record. Det. Zucconi then began to walk away from § 87(2)(b). § 87(2)(b) followed Det. Zucconi and heckled him. After § 87(2)(b) called Det. Zucconi a "fat motherfucker," Det. Zucconi turned around and, with a closed fist, punched § 87(2)(b) on his left temple. § 87(2)(b) fell backward and struck his head on the ground. He lost consciousness for about five seconds. § 87(2)(b) did not testify that Det. Zucconi used any other force against him. § 87(2)(b) stood up after about ten seconds and continued following the officers to the stationhouse.

§ 87(2)(b) testified that, because of the punch, he developed a welt on his left temple. He went into the 17<sup>th</sup> Precinct stationhouse to officially report the incident and to ask them to summon an ambulance. He ultimately received medical treatment at § 87(2)(b) Hospital. The medical records from § 87(2)(b) Hospital (see Privilege Records) noted that § 87(2)(b) told medical staff that he was "sucker punched" in the face by an NYPD detective. He reported having dizziness and lightheadedness. The records indicate that the left side of § 87(2)(b) face was tender to touch,

but there were no deformities, bruising, or signs of injuries. § 87(2)(b) also stated that he had smoked marijuana and drank one beer that evening.

The cell phone footage provided by § 87(2)(b) (Board Review 01) appeared to be a screen recording of a larger video. As such, the video was neither full screen nor captured § 87(2)(b) actions while outside the stationhouse, prior to interacting with Det. Zucconi. § 87(2)(b) did not comply with the investigation's exhaustive attempts to obtain the complete video. At 00:08, § 87(2)(b) asks Det. Zucconi if he wanted to move his vehicle. Det. Zucconi responded no, and § 87(2)(b) replied, "Y'all Jewish, huh?" Det. Zucconi then points his flashlight at § 87(2)(b) for approximately nine seconds. The light from the flashlight obscures the camera on § 87(2)(b) phone. At 00:23, Det. Zucconi stops pointing his flashlight and begins walking away from § 87(2)(b). § 87(2)(b) follows Det. Zucconi, curses at him, and asks him the definition of the First Amendment. At 00:40, § 87(2)(b) says, to Det. Zucconi, "Piece of shit. You want to fix your walk? I know you ain't catching no criminals walking like that. Fat motherfucker." Det. Zucconi then turns around and walks toward § 87(2)(b). He comes so close that it is no longer possible to see what happens, but it is apparent that § 87(2)(b) phone immediately leaves his grasp and falls to the ground.

The surveillance footage (Board Review 03, starting at 02:50) captured the incident from the northeast corner of East 51<sup>st</sup> Street and 3<sup>rd</sup> Avenue. The camera is some distance from the encounter and does not provide a very clear or detailed view – the entire encounter appears in the upper left corner of the screen. Det. Zucconi and Det. Smith near the corner, with Det. Smith walking ahead of Det. Zucconi. § 87(2)(b) follows behind and can be identified by the light emanating from the phone he is holding. At 03:06, Det. Zucconi turns around to approach § 87(2)(b). Det. Zucconi appears to reach out with his right hand and to push down the arm in which § 87(2)(b) holds his phone. What happens next is not clear, but it is apparent that the two men are very close to each other, and then § 87(2)(b) stumbles backward a few steps and falls to the ground. At this point, § 87(2)(b) is entirely obscured by a parked car. The two officers stand around the area where § 87(2)(b) fell for approximately 70 seconds. § 87(2)(b) stands back up at some point during that time, but it is not clear in the footage. He and Det. Zucconi then walk toward the stationhouse while Det. Smith follows behind.

As noted earlier, the collective BWC footage (Board Review 05-20) did not capture § 87(2)(b) interaction with Det. Zucconi. Instead, it captured § 87(2)(b) subsequent complaint at the stationhouse, transportation to and from the hospital, and his interview with officers about what took place. Officers discovered, during the process of obtaining medical attention, that § 87(2)(b) had an open warrant, so he was arrested and held at the stationhouse after returning from the hospital. BWC footage also captures the events surrounding the arrest. § 87(2)(b)

§ 87(2)(b) A screenshot from Sgt. Adriano Contreras' BWC footage best captured § 87(2)(b) forehead the immediate aftermath of § 87(2)(b) interaction with Det. Zucconi (Board Review 25). There are no visible injuries to § 87(2)(b) left temple.

The TRI report prepared by the Detective Bureau Duty Captain at the time of the incident, Capt. Matthew Strong of the Police Laboratory Unit. Capt. Strong noted in the report that Det. Zucconi claimed that he pushed § 87(2)(b) backwards because he felt that his safety was in danger, as § 87(2)(b) seemed intent on escalating the incident and was overtly hostile (Board Review 26). Capt. Strong prepared an Unusual Occurrence Report which similarly noted that Det. Zucconi stated that he pushed § 87(2)(b) on his chest using an open hand (Board Review 27).



Det. Zucconi testified (Board Review 28) that he pointed his flashlight at § 87(2)(b) because he wanted to be able to see whether § 87(2)(b) was holding anything in the hand which was not being used to hold his phone. He ceased pointing his flashlight at § 87(2)(b) hand once he was able to confirm that § 87(2)(b) hand was visible and empty. Det. Zucconi denied that he intentionally pointed his flashlight at § 87(2)(b) phone to interfere with his recording. Det. Zucconi also denied punching or otherwise using force against § 87(2)(b). He recounted that he knocked § 87(2)(b) phone out of his hand to prevent § 87(2)(b) from following him inside the stationhouse and creating a scene. His intention was to distract § 87(2)(b) by having him look for his phone on the ground, thereby giving him enough time to enter the stationhouse without § 87(2)(b). Det. Zucconi testified that he only made contact with § 87(2)(b) phone and did not make contact with any part of § 87(2)(b) body. After Det. Zucconi knocked the phone out of § 87(2)(b) hand, § 87(2)(b) intentionally fell on the ground chest first in an exaggerated manner, and he began to laugh and gloat that Det. Zucconi had messed up. The fact that § 87(2)(b) deliberately fell to the ground and began laughing and gloating led Det. Zucconi to believe that § 87(2)(b) had been trying to provoke him into using force. Det. Zucconi denied using any force against § 87(2)(b) which would have caused him to fall to the ground. Det. Zucconi did not consider § 87(2)(b) to be a threat during the incident and did not believe § 87(2)(b) was committing any crimes or violations.

Det. Zucconi confirmed that he eventually recounted the incident to Capt. Strong. He told Capt. Strong that he merely knocked § 87(2)(b) phone out of his hand. He did not tell Capt. Strong that he pushed § 87(2)(b) nor did he tell Capt. Strong that he feared for his safety during the incident. Upon reviewing the TRI report, Det. Zucconi testified that he believed Capt. Strong may have interpreted his account of the incident incorrectly. Det. Zucconi maintained that he did not punch or otherwise push § 87(2)(b) after he knocked § 87(2)(b) phone out of his hand.

Det. Smith testified (Board Review 29) that he was walking in front of § 87(2)(b) and Det. Zucconi. Therefore, he did not see if Det. Zucconi punched or otherwise touched § 87(2)(b). Det. Smith first became aware that something had happened when he heard the plastic bag which Det. Zucconi was carrying hit the ground. When he turned around, § 87(2)(b) was already on the ground and Det. Zucconi was standing over him.

The investigation could not determine if Det. Zucconi used his flashlight in an attempt to interfere with § 87(2)(b) ability to film the encounter. Regardless, Det. Zucconi admitted that he deliberately knocked § 87(2)(b) phone from his hand. Absent clearer video footage or additional witness testimony, the investigation could not determine whether Det. Zucconi punched § 87(2)(b) nor whether he pushed § 87(2)(b) to the ground.

Individuals have a right to lawfully observe and record police activity. This right to observe and record police action can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual who is recording. Furthermore, officers are to not intentionally prevent, or attempt to prevent, an individual from recording police activities. Administrative Guide Procedure 304-21 (Board Review 30).

§ 87(2)(g)  
As Det. Zucconi acknowledged, he did not believe § 87(2)(b) to be a threat, nor did he believe § 87(2)(b) to be committing any crimes or violations. Det. Zucconi's claimed justification for doing so—that he hoped recovering the phone would distract § 87(2)(b) from continuing to follow him into the stationhouse—§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- § 87(2)(b)
- Det. Zucconi has been a member of the NYPD for 17 years and has been a subject in one other CCRB complaint and one other allegation, which was not substantiated. § 87(2)(g)

### Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of April 24, 2024, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (Board Review 32).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad: 5

Investigator: Henry Buren Inv. Henry Buren April 24, 2024  
Signature Print Title & Name Date

Squad Leader: Daniel Giansante IM Daniel Giansante April 24, 2024  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date